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Attorneys for Plaintiff
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CRIMINAL NO. 02-0307DAE
)	
Plaintiff,)	MEMORANDUM, RE: DEFENDANT'S
)	MOTION FOR WITHDRAWAL AND
vs.)	SUBSTITUTION OF COUNSEL
)	
LENORA JEAN AITCHISON,)	
)	Hearing Date: 3/23/07 at
Defendant.)	2:00 p.m., before the Hon.
)	Kevin S.C. chang, U.S. Magis-
)	trate Judge

MEMORANDUM, RE: DEFENDANT'S MOTION
FOR WITHDRAWAL AND SUBSTITUTION OF COUNSEL

The Federal Public Defender's Office (FPD) has yesterday filed its "Motion for Withdrawal and Substitution of Counsel", which seeks to have a CJA panel counsel appointed to represent defendant.

As the Record herein indicates, defendant was first represented in this case by Assistant Federal Public Defender Michael Weight, who has since retired from the FPD. Retained counsel from Alaska was subsequently substituted-in to replace

Mr. Weight. Thereafter, Jack Schweigert, Esq., substituted-in for Alaskan counsel, and he was subsequently permitted to withdraw pursuant to his motion therefor after a hearing before Magistrate Judge Kurren on January 25, 2007. See "Order Granting Defense Counsel's Motion to Withdraw and Appoint Public Defender's Office as Substitute Counsel and Continuing Sentencing filed January 16, 2007", entered February 5, 2007 (hereinafter "withdrawal order").

While we take no position on appointment of counsel matters, we do wish to point out certain matters: first, defendant's instant moving papers are not correct that "[n]o staff member of the Federal Public Defender's Office was present in the courtroom when our office was recently reappointed to Ms. Aitchison's case". See Declaration of Counsel at 2. To the contrary, as indicated in the withdrawal order, Assistant Federal Public Defender Pamela Byrne was present in the courtroom. Second, defendant's Declaration is also not accurate in stating that {t}herefore, at the time of our appointment [at the 1/25/07 hearing], the court was not made aware of our conflict of interest in this case". In this regard, undersigned government counsel pointed out to Magistrate Judge Kurren at the hearing that the FPD had previously represented defendant; my recollection is that defendant (who was present at the 1/25/07 hearing, see withdrawal order) waived this potential conflict on

the record, taking into account that Mr. Weight was no longer with the office.

In view of the foregoing, we have some concern about waiving defendant's presence at this hearing and this Court taking any action concerning her future representation without her being present (either in-person or via telephonic conference call), and her views not being made known on the record.

DATED: Honolulu, Hawaii, March 23, 2007.

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

By /s/ Michael K. Kawahara
MICHAEL K. KAWAHARA
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that, on the date and by the method of service noted below, a true and correct copy of the foregoing was served on the following at her last known address:

Served Electronically through CM/ECF:

Loretta Faymonville loretta_faymonville@fd.org March 23, 2007

Attorney for Defendant
Lenora Jean Aitchison

/s/ Rowena N. Kang